

JUDGE DAVID G. ESTUDILLO

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,)	No. CR22-5139-DGE
Plaintiff,)	
v.)	UNOPPOSED DEFENSE MOTION TO
JOAO RICARDO DEBORBA,)	CONTINUE TRIAL DATE AND
Defendant.)	PRETRIAL MOTIONS DUE DATE

Joao DeBorba, through his attorney, Assistant Federal Public Defender Rebecca Fish, respectfully requests a continuance of the trial date to September 25, 2023, with a pretrial motions deadline consistent with the new trial date. The request for continuance is unopposed by the Government, as represented by Assistant United States Attorney Max Shiner.

1) Mr. DeBorba is charged by Indictment with:

COUNT 1 & 2 Unlawful Possession of Firearms and Ammunition,
In violation of 18 U.S.C. § 922(g)(5) and (8);

COUNT 3 Unlawful Possession of a Firearm, in violation of 18
U.S.C. § 922(g)(5);

COUNT 4 & 5 False Statement During Purchase of Firearm, in
violation of 18 U.S.C. § 922(a)(6); and

COUNT 6 False Claim to United States Citizenship, in violation
of 18 U.S.C. § 911.

1 2) On May 6, 2022, Mr. DeBorba was arrested and made his initial
2 appearance in Court before Judge David W. Christel (dkt. 1, 6). An Indictment was
3 returned on May 19, 2022 (dkt. 9) and Mr. DeBorba was arraigned on May 31, 2022
4 (dkt. 13).

5 Four previous extensions of the trial date have been granted and trial is presently
6 set for June 26, 2023 with pretrial motions due September 25, 2023 (dkt. 31).

7 3) Defense counsel has been diligently working through the voluminous
8 discovery as well as important factual and legal investigation. However, the defense
9 team requires additional time to complete necessary investigation, and defense counsel
10 requires additional time to effectively research and prepare pretrial motions—including
11 potential motions based on *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 142 S.
12 Ct. 2111 (2022) and newer ensuing decisions including *United States v. Rahimi*, 61
13 F.4th 443, 448 (5th Cir. 2023), *cert. granted*, No. 22-915, 2023 WL 4278450 (U.S. June
14 30, 2023), and *Teter v. Lopez*, No. 20-15948, 2023 WL 5008203, at *2 (9th Cir. Aug. 7,
15 2023). Defense counsel also requires additional time to fully research the immigration
16 consequences of a proposed potential resolution in order to effectively advise Mr.
17 DeBorba. Defense counsel has been diligently pursuing these legal issues, however,
18 defense counsel needs more time than the present trial and motion schedule would
19 allow.

20 4) The defense requests additional time to continue its factual and legal
21 investigation of this case and to explore potential legal, immigration, and factual issues
22 for purposes of pretrial motions and advising Mr. DeBorba. In order to provide
23 effective assistance of counsel to Mr. DeBorba for these very serious charges, the
24 defense requests additional time beyond the current trial date of September 25, 2023, in
25 order to prepare for trial, effectively advise Mr. DeBorba, and file pre-trial motions.

26 For these reasons, the parties request the Court find that:

1 (a) taking into account the exercise of due diligence, a failure to grant a
2 continuance would deny counsel for the defendant the reasonable time necessary for
3 effective preparation, due to counsel's need for more time to review the evidence,
4 consider possible defenses, and gather evidence material to the defense, as set forth in
5 18 U.S.C. § 3161(h)(7)(B)(iv); and

6 (b) a failure to grant a continuance would likely result in a miscarriage of justice,
7 as set forth in 18 U.S.C. § 3161(h)(7)(B)(i); and

8 (c) the additional time requested is a reasonable period of delay, as the defendant
9 has requested more time to prepare for trial, to investigate the matter, to gather evidence
10 material to the defense, and to consider possible defenses; and

11 (d) the case is sufficiently complex that it is unreasonable to expect adequate
12 preparation for pretrial proceedings or the trial itself within the current trial schedule, as
13 set forth in 18 U.S.C. § 3161(h)(7)(B)(ii); and

14 (e) the ends of justice will best be served by a continuance, and the ends of
15 justice outweigh the best interests of the public and the defendant in any speedier trial,
16 as set forth in 18 U.S.C. § 3161(h)(7)(A); and

17 (f) the additional time requested between the current trial date of September 25,
18 2023, and the new trial date of October 10, 2023, is necessary to provide counsel for the
19 defendant reasonable time to prepare for trial considering all of the facts set forth
20 above.

21 Mr. DeBorba has executed a speedy trial waiver through November 17, 2023,
22 which will be filed with this motion.

23 Defense counsel has conferred with Assistant United States Attorney Max
24 Shiner who has no objection to a continuance of the trial date and pretrial motions due
25 date.

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1 The parties further ask the Court to exclude the time period from the date of this
2 motion to the new trial date for purposes of computing the time limitations imposed by
3 the Speedy Trial Act.

4 DATED this 14th day of August 2023.

5 Respectfully submitted,

6 s/ Rebecca Fish

7 Assistant Federal Public Defender

8 Attorney for Mr. Joao DeBorba
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